CENTER FOR RESPONSIBLE LENDING

May 10,2004

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

VIA EMAIL: regs.comments@federalreserve.gov

Re: Regulation C: Docket No. R-1186

Dear Secretary Johnson:

Self-Help (www.self-help.org) consists of a credit union and a nonprofit loan fund. Fundamentally, Self-Help is a community development financial institution that creates ownership opportunities for low-wealth families through home and small business lending. Since our inception in 1980, we have provided over $3.5 billion dollars of financing to help more than 40,000 borrowers buy homes, build businesses and strengthen community resources.

In addition to its credit union and loan fund, Self-Help recently formed the Center for Responsible Lending (CRL) (www.responsiblelending.org). CRL is a non-profit, nonpartisan policy and research organization that works to eliminate abusive financial practices. Dedicated to protecting homeownership and family wealth, CRL promotes responsible lending practices and access to fair terms of credit for low-wealth families. As a member of a coalition with organizations that represented over three million North Carolinians, CRL helped to pass North Carolina's strong statute against predatory lending. CRL continues to promote legislative and regulatory efforts to address predatory lending issues.

We appreciate the opportunity to comment on the proposed revisions to the HMDA public disclosure tables. Our comments are grounded in our experience working with HMDA data both as a HMDA reporter (through Self-Help Credit Union) and through the research we conduct on predatory lending.

- *Table I:* We support the addition of separately itemized information on manufactured housing. This information will be helpful for tracking and analyzing the disposition of loans for manufactured housing at the neighborhood and county levels.

- *Table 2:* The addition of a separately itemized information on manufactured housing in Table **2** will be helpful for tracking and analyzing the purchase of manufactured housing loans at the neighborhood level, as well as in the aggregate.
- *Table* **3:** The proposed revisions to Table *3* are generally sensible, given changes to the purchaser categories and borrower characteristics under the amended Regulation C. However, we do not think that the elimination of information on the gender of the borrower from Table 3 is advisable.
- *Table 4, Table **5** and Table 6 Series:* As with the revisions to Table 3, the revisions to Tables 4 and 5 are reasonable, given changes in the borrower characteristic data collected under the amended Regulation C. In addition, we strongly approve of the addition of information like that contained in proposed Tables 4-7 and 5-7, which will significantly enhance access to information on the disposition of applications for manufactured housing loans for different racial, ethnic, and income groups. Such summary information would be more useful were it to disaggregate information on manufactured housing loans made to enable a home purchase. With respect to information summarized by borrower gender in the Table 6 Series, we believe that it continues to be useful and we recommend retaining it.
- *Table 7 Series:* We support the addition of Table 7-7, which will enhance access to information on the disposition of applications for manufactured housing loans in neighborhoods of different ethnic, racial and income compositions.
- *Table 8 Series:* As with the revisions to Tables 3, 4, and 5, the revisions to the Table 8 series are reasonable, given the new categorizations of borrower race and ethnicity.
- *Aggregate Table 9:* We support the addition of separately itemized information on manufactured housing. This information will be very useful in tracking and analyzing the disposition of loan applications for manufactured housing in neighborhoods of different median property age.
- *Table 11 Series:* The new tables displaying the rate spread between the APR on loans and the rate on Treasury securities of comparable maturities by borrower characteristics (i.e. race, ethnicity, income and gender), and by neighborhood characteristics (racial/ethnic composition and income characteristics of census tracts) is a welcome addition to the public disclosure tables. This information, combined with the Table 11 series' information on HOEPA status, will prove very helpful for tracking and analyzing the pricing of loans for different types of borrowers and in different types of neighborhoods. However, we believe that loan pricing information should be included for government-insured loans.
- *Table 12:* The new table displaying the disposition and rate spread for manufactured housing is also a welcome addition to the public disclosure tables. This information will be very useful for tracking and analyzing the pricing of first-lien purchase loans for manufactured housing.
- *Summary Table A Series:* We approve of the proposed Summary Table A Series, which would show the disposition of home purchase, refinance, and home improvement loans for a given institution. The proposed tables, which provide

the above information broken down by lien status, property type, loan type and MSA, will serve as useful overviews of the types of lending in which a given institution is engaged.

- *Summary Table B:* We approve of the proposed Summary Table B, which would provide an overview of institution-specific loan pricing and HOEPA status. This table would serve as a useful complement to the data presented in the Table 11 series and in Table 12.

In all, we believe that the proposed changes to the public disclosure tables will enhance the utility of these tables for community development organizations, lenders and researchers. We commend the Federal Reserve Board for its thoughtful analysis of how best to display HMDA data for public consumption. We use the remainder of this letter, however, to reiterate opportunities to substantially improve the relevance of HMDA to today's home lending market.

As we have mentioned in previous comment letters to the Federal Reserve Board regarding Regulation C (docket numbers R-1001 and R-1120), we strongly support the Board's efforts to address abusive and discriminatory lending practices through its HMDA rulemaking. CRL believes that the Board took an important step forward in revising HMDA reporting requirements to include disclosure of the spread between APR and comparable Treasury rates, manufactured housing status, and the identity of a reporter's parent company. We also approve of the Board's decision to expand HMDA coverage of nondepository lenders. The additional information that will be available to the public because of these revisions will be extremely useful in combating discriminatory and abusive lending practices.

However, in order to fully carry out the purposes of HMDA, the Board should also require lenders to report the following information:

1. Points and Fees

As mentioned above, we strongly support the Board's decision to require lenders to report the spread between a loan's annual percentage rate and the yield of Treasuries with comparable terms when exceeding ***3%*** for first liens and *5%* for second liens. The inclusion of this pricing information, while limited, is essential to updating HMDA to deal with the fact that the terms of credit is are now being used in unfair and abusive ways.

However, while information on the APR spread is essential to identifying and understanding patterns of loan pricing, it is not sufficient. Without information on points and fees associated with loans, it is impossible to evaluate the real cost of credit. Consider two loans, one at 10% interest and no fees, the other at 9% interest and 9% fees. Both have APRs of 10%, but the actual cost of the loans to most borrowers would be very different. Since the average subprime loan remains outstanding for just two years, after this time the high-interest rate borrower will have paid a total of 2% more interest than the second. Meanwhile, the high-fee borrower will have paid 9% more in fees. The total cost to the high fee borrower is 4.5 times as high as the high-rate borrower, even though the APR suggests that the costs are precisely the same. This counterintuitive result is based on the fact the APR amortizes fees over the original term of the loan despite the fact that almost all loans are paid off well before the term expires. As a result, although two loans with the same APR would appear to have the same cost to the borrower, the loan with a higher nominal interest rate will generally have the lower final cost to the borrower compared with the loan with significant up-front fees.

The fact that APR hides the size of fees for most borrowers is not merely of academic concern. Since the rate spread between APR and Treasury securities is the only price information that lenders are required to report, there is an incentive for lenders to shift some of their compensation from rates to fees, since they can obtain much greater compensation without changing the APR. This result is exactly the opposite of what responsible lending principles would dictate.

Loan pricing is the most important issue in understanding the fairness of the mortgage market, and it is essential that the loan pricing information collected provide an accurate and complete picture of the cost of credit. Although abusive lending is often thought to be associated with high interest rates, the primary issue is high fees charged to borrowers. Too many homeowners are losing the wealth they spent a lifetime building because of equity stripping that results from lenders charging excessive fees. As a result, we strongly recommend replacing the HOEPA yes/no field with one that includes the number of points and fees (as defined by HOEPA), if such points and fees exceed two.' In this way, the Board could collect information on potentially abusive loan terms, while not placing additional burdens on conventional lenders.

2. Inclusion of lien status for purchased loans.
Self-Help also supports the Federal Reserve's decision to require lending institutions to report lien status for all loans and applications. However, we believe this information should also be required for purchased loans.

3. Required reporting of race for in-person closings.
A substantial portion of borrowers have no race data included in their HMDA files. Since one of HMDA's primary purposes is to help identify and combat discriminatory lending practices, a high percentage of missing race data is worrying. Self-Help applauds the Board's decision to require lenders to request information about the race and ethnicity of telephone applicants. However, more can be done to ensure comprehensive data on race and ethnicity. For example, lenders should also be required to report the race of borrowers who apply over the telephone but then come in for in-person closings.

4. Expansion of HMDA coverage to include rural areas.
To date, studies of predatory lending and lending discrimination have focused on urban areas. At least part of the explanation for this can be found in the limited disclosure

---

[1] An acceptable alternative measure of borrwer cost would be to report "total settlement charges" from the HUD-I or HUD-1A. This total would pick up a number of areas where borrowers are subject to abuse: high origination fees and discount points, up-front broker fees and up-front credit insurance premiums.

requirements for loan applications from areas outside of metropolitan statistical areas. CRL believes that, like the gaps in race and ethnicity data, the gaps in rural data collection unnecessarily restrict researchers' ability to study important trends, including patterns of discriminatory and abusive lending practices in rural areas. Therefore, CRL urges the Board to increase HMDA's disclosure requirements for loan applications from rural areas.

Conclusion

Once again, we would like to thank the Federal Reserve for its efforts to improve the usefulness of HMDA data, both through its revisions to Regulation C and its proposed changes to the public disclosure tables. These revisions will significantly improve access to important information on lending patterns throughout the country. However, we also believe that more can be done to improve the quality of HMDA data. Our recommendations, if implemented, would make available additional information that is critical to identifying and combating discriminatory and abusive lending practices.

Thank you for considering our views.

Sincerely,

Keith Ernst
Senior Policy Counsel

Jamie Z. Goodson
Policy Counsel

Debbie Gruenstein Bocian
Research Associate

CENTER FOR RESPONSIBLE LENDING

May 10,2004

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

VIA EMAIL: regs.comments@federalreserve.gov

Re: Regulation C: Docket No. R-1186

Dear Secretary Johnson:

Self-Help (www.self-help.org) consists of a credit union and a nonprofit loan fund. Fundamentally, Self-Help is a community development financial institution that creates ownership opportunities for low-wealth families through home and small business lending. Since our inception in 1980, we have provided over $3.5 billion dollars of financing to help more than 40,000 borrowers buy homes, build businesses and strengthen community resources.

In addition to its credit union and loan fund, Self-Help recently formed the Center for Responsible Lending (CRL) (www.responsiblelending.org). CRL is a non-profit, nonpartisan policy and research organization that works to eliminate abusive financial practices. Dedicated to protecting homeownership and family wealth, CRL promotes responsible lending practices and access to fair terms of credit for low-wealth families. As a member of a coalition with organizations that represented over three million North Carolinians, CRL helped to pass North Carolina's strong statute against predatory lending. CRL continues to promote legislative and regulatory efforts to address predatory lending issues.

We appreciate the opportunity to comment on the proposed revisions to the HMDA public disclosure tables. Our comments are grounded in our experience working with HMDA data both as a HMDA reporter (through Self-Help Credit Union) and through the research we conduct on predatory lending.

- *Table I :* We support the addition of separately itemized information on manufactured housing. This information will be helpful for tracking and analyzing the disposition of loans for manufactured housing at the neighborhood and county levels.

- *Table* 2: The addition of a separately itemized information on manufactured housing in Table 2 will be helpful for tracking and analyzing the purchase of manufactured housing loans at the neighborhood level, as well as in the aggregate.
- *Table* ***3:*** The proposed revisions to Table 3 are generally sensible, given changes to the purchaser categories and borrower characteristics under the amended Regulation C. However, we do not think that the elimination of information on the gender of the borrower from Table 3 is advisable.
- *Table* ***4,*** *Table 5 and Table 6 Series:* As with the revisions to Table 3, the revisions to Tables 4 and 5 are reasonable, given changes in the borrower characteristic data collected under the amended Regulation C. In addition, we strongly approve of the addition of information like that contained in proposed Tables 4-7 and 5-7, which will significantly enhance access to information on the disposition of applications for manufactured housing loans for different racial, ethnic, and income groups. Such summary information would be more useful were it to disaggregate information on manufactured housing loans made to enable a home purchase. With respect to information summarized by borrower gender in the Table 6 Series, we believe that it continues to be useful and we recommend retaining it.
- *Table 7 Series:* We support the addition of Table 7-7, which will enhance access to information on the disposition of applications for manufactured housing loans in neighborhoods of different ethnic, racial and income compositions.
- *Table* 8 *Series:* As with the revisions to Tables 3, 4, and 5, the revisions to the Table 8 series are reasonable, given the new categorizations of borrower race and ethnicity.
- *Aggregate Table 9:* We support the addition of separately itemized information on manufactured housing. This information will be very useful in tracking and analyzing the disposition of loan applications for manufactured housing in neighborhoods of different median property age.
- *Table I 1 Series:* The new tables displaying the rate spread between the APR on loans and the rate on Treasury securities of comparable maturities by borrower characteristics (i.e. race, ethnicity, income and gender), and by neighborhood characteristics (racial/ethnic composition and income characteristics of census tracts) is a welcome addition to the public disclosure tables. This information, combined with the Table 11 series' information on HOEPA status, will prove very helpful for tracking and analyzing the pricing of loans for different types of borrowers and in different types of neighborhoods. However, we believe that loan pricing information should be included for government-insured loans.
- *Table* 12: The new table displaying the disposition and rate spread for manufactured housing is also a welcome addition to the public disclosure tables. This information will be very useful for tracking and analyzing the pricing of first-lien purchase loans for manufactured housing.
- *Summary Table A Series:* We approve of the proposed Summary Table A Series, which would show the disposition of home purchase, refinance, and home improvement loans for a given institution. The proposed tables, which provide

the above information broken down by lien status, property type, loan type and MSA, will serve as useful overviews of the types of lending in which a given institution is engaged.

- *Summary Table B:* We approve of the proposed Summary Table B, which would provide an overview of institution-specific loan pricing and HOEPA status. This table would serve as a useful complement to the data presented in the Table 11 series and in Table 12.

In all, we believe that the proposed changes to the public disclosure tables will enhance the utility of these tables for community development organizations, lenders and researchers. We commend the Federal Reserve Board for its thoughtful analysis of how best to display HMDA data for public consumption. We use the remainder of this letter, however, to reiterate opportunities to substantially improve the relevance of HMDA to today's home lending market.

As we have mentioned in previous comment letters to the Federal Reserve Board regarding Regulation C (docket numbers R-1001 and R-1120), we strongly support the Board's efforts to address abusive and discriminatory lending practices through its HMDA rulemaking. CRL believes that the Board took an important step forward in revising HMDA reporting requirements to include disclosure of the spread between APR and comparable Treasury rates, manufactured housing status, and the identity of a reporter's parent company. We also approve of the Board's decision to expand HMDA coverage of nondepository lenders. The additional information that will be available to the public because of these revisions will be extremely useful in combating discriminatory and abusive lending practices.

However, in order to fully carry out the purposes of HMDA, the Board should also require lenders to report the following information:

1. Points and Fees

As mentioned above, we strongly support the Board's decision to require lenders to report the spread between a loan's annual percentage rate and the yield of Treasuries with comparable terms when exceeding ***3%*** for first liens and *5%* for second liens. The inclusion of this pricing information, while limited, is essential to updating HMDA to deal with the fact that the terms of credit is are now being used in unfair and abusive ways.

However, while information on the APR spread is essential to identifying and understanding patterns of loan pricing, it is not sufficient. Without information on points and fees associated with loans, it is impossible to evaluate the real cost of credit. Consider two loans, one at 10% interest and no fees, the other at 9% interest and 9% fees. Both have APRs of 10%, but the actual cost of the loans to most borrowers would be very different. Since the average subprime loan remains outstanding for just two years, after this time the high-interest rate borrower will have paid a total of 2% more interest than the second. Meanwhile, the high-fee borrower will have paid 9% more in fees. The total cost to the high fee borrower is 4.5 times as high as the high-rate borrower, even though the APR suggests that the costs are precisely the same. This counterintuitive result is based on the fact the APR amortizes fees over the original term of the loan despite the fact that almost all loans are paid off well before the term expires. As a result, although two loans with the same APR would appear to have the same cost to the borrower, the loan with a higher nominal interest rate will generally have the lower final cost to the borrower compared with the loan with significant up-front fees.

The fact that APR hides the size of fees for most borrowers is not merely of academic concern. Since the rate spread between APR and Treasury securities is the only price information that lenders are required to report, there is an incentive for lenders to shift some of their compensation from rates to fees, since they can obtain much greater compensation without changing the APR. This result is exactly the opposite of what responsible lending principles would dictate.

Loan pricing is the most important issue in understanding the fairness of the mortgage market, and it is essential that the loan pricing information collected provide an accurate and complete picture of the cost of credit. Although abusive lending is often thought to be associated with high interest rates, the primary issue is high fees charged to borrowers. Too many homeowners are losing the wealth they spent a lifetime building because of equity stripping that results from lenders charging excessive fees. As a result, we strongly recommend replacing the HOEPA yes/no field with one that includes the number of points and fees (as defined by HOEPA), if such points and fees exceed two.[1] In this way, the Board could collect information on potentially abusive loan terms, while not placing additional burdens on conventional lenders.

2. Inclusion of lien status for purchased loans.

Self-Help also supports the Federal Reserve's decision to require lending institutions to report lien status for all loans and applications. However, we believe this information should also be required for purchased loans.

3. Required reporting of race for in-person closings.

A substantial portion of borrowers have no race data included in their HMDA files. Since one of HMDA's primary purposes is to help identify and combat discriminatory lending practices, a high percentage of missing race data is worrying. Self-Help applauds the Board's decision to require lenders to request information about the race and ethnicity of telephone applicants. However, more can be done to ensure comprehensive data on race and ethnicity. For example, lenders should also be required to report the race of borrowers who apply over the telephone but then come in for in-person closings.

4. Expansion of HMDA coverage to include rural areas.

To date, studies of predatory lending and lending discrimination have focused on urban areas. At least part of the explanation for this can be found in the limited disclosure

[1] An acceptable alternative measure of borrwer cost would be to report "total settlement charges" from the HUD-1 or HUD-1**A.** This total would pick up a number of areas where borrowers are subject to abuse: high origination fees and discount points, up-front broker fees and up-front credit insurance premiums.

requirements for loan applications from areas outside of metropolitan statistical areas. CRL believes that, like the gaps in race and ethnicity data, the gaps in rural data collection unnecessarily restrict researchers' ability to study important trends, including patterns of discriminatory and abusive lending practices in rural areas. Therefore, CRL urges the Board to increase HMDA's disclosure requirements for loan applications from rural areas.

Conclusion

Once again, we would like to thank the Federal Reserve for its efforts to improve the usefulness of HMDA data, both through its revisions to Regulation C and its proposed changes to the public disclosure tables. These revisions will significantly improve access to important information on lending patterns throughout the country. However, we also believe that more can be done to improve the quality of HMDA data. Our recommendations, if implemented, would make available additional information that is critical to identifying and combating discriminatory and abusive lending practices.

Thank you for considering our views.

Sincerely,

Keith Ernst
Senior Policy Counsel

Jamie Z. Goodson
Policy Counsel

Debbie Gruenstein Bocian
Research Associate